DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 2135

3 June 2022

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and with the approval of the Minister for Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[1	Words or expressions in bold type in square brackets indicate omissions from the existing rules.
<u></u>		Words or expressions underlined with a solid line indicate insertions
		into the existing rules.

Definition

1. In this Schedule "the Rules" means the Rules Regulating the Conduct of the Proceedings of the Supreme Court of Appeal of South Africa published under Government Notice No. R. 1523 of 27 November 1998, as amended by Government Notice Nos. R. 979 of 19 November 2010, R. 191 of 11 March 2011, R. 113 of 15 February 2013, R. 1055 of 29 September 2017, R. 1318 of 30 November 2018, R. 842 of 31 May 2019, R. 858 of 7 August 2020, R. 1158 of 30 October 2020 and R. 1602 of 17 December 2021.

Amendment of rule 15 of Rules

- 2. Rule 15 of the Rules is hereby amended—
- (a) by the substitution of the heading for the following heading:

"Legal assistance to indigent persons";

(b) by the substitution for subrule (1) of the following subrule:

"(1) (a) Any party who is a natural person, [and] who is of the opinion that he or she is indigent, and who does not qualify for legal aid, or who requires to continue as an indigent litigant in an appeal already commenced may request the registrar for leave to prosecute or defend an appeal [*in forma pauperis*] as an indigent litigant, and if it appears to the registrar that such person is as contemplated by subrule (2), the registrar shall refer such person to an attorney and an advocate.

(b) Where a person applies to continue as an indigent litigant in an appeal already commenced, such person may do so by proceeding in terms of the provisions of this rule but in addition, he or she shall—

(i) set out the alteration in his or her circumstances which renders it necessary to continue to prosecute or defend an appeal as an indigent litigant; and

(ii) give notice of the application to the opposite party.

(c) In the event of the opposite party raising an objection to the granting of such an application, the applicant must apply formally to the court for such leave, after giving proper notice to the other side.".

(c) by the substitution for subrule (2) of the following subrule:

"(2) A party shall be deemed to be indigent if **[he or she]** <u>that party</u> can satisfy the registrar that, except for household goods, wearing apparel and tools of trade **[he or she]** <u>such party</u> is not possessed of property to the amount of **[R10 000]** <u>R640 000</u> and will not be able within a reasonable time to provide such sum from **[his or her]** <u>own</u> earnings or obtain legal aid.";

(d) by the substitution for subrule (3) of the following subrule:

"(3) No such request shall be lodged with the registrar unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding **[in forma pauperis]** as an indigent <u>litigant</u> within one month thereafter."; and

(e) by the substitution for subrule (5) of the following subrule:

"(5) Whenever a party obtains leave to prosecute or defend an appeal **[in forma pauperis]** as an indigent litigant that party shall not be required to lodge security in terms of these rules for the costs of the opposite

party [or to pay any court fees] notwithstanding the existence of any order

referred to in rule 9(1).".

Amendment of rule 18 of the rules

3. The rules are hereby amended by the substitution for rule 18 of the following rule:

"Attorneys' fees

18. The following fees shall be allowed to attorneys conducting appeals or other matters before the Court:

A – TAKING INSTRUCTIONS

R.c

1.	(a)	(a) To note an appeal or cross-appeal when leave to appeal is								
		not re	equired per o	quarter of a	ın hour—					
		(i)	by an atto	rney				[328 , 00] <u>357,00</u>		
		(ii)	by a cand	idate attorr	ney			[102,00]111,00		
	(b)	To pr	osecute or o	defend an	appeal, inclu	uding contir	nuation o	f a cross-appeal		
		per quarter of an hour—								
		(i)	by an atto	rney				[328,00]357,00		
		(ii)	by a cand	idate attorr	ey			[102,00]111,00		
	(C)	Tom	ake or oppo	se an appl	ication per q	uarter of ar	hour—			
	8.8	(i)						[328,00] <u>357,00</u>		
		(ii)						[102,00]111,00		
2.	To dr	raft any	y application	ı or affidavi	t per page			[131,50]143,00		
			В –	PREPARA	TION OF RE	ECORDS				
								R.c		
1.	Making, for the purpose of preparing copies of the record on appeal (except where									
	a charge is made under paragraph 5 hereof), a copy of such particulars of the									
	recor	rd as w	vere not in t	he possess	sion of the a	ppellant or	his or he	er attorney at the		
	time	wh	nen the	order	appealed	from	was	made, per		
	page	1						[4,50] <u>5,0</u>		
	<u>0</u>									
2.				a contration of the second second	전 가장 그는 것 같은 것은 것을 가지 않는 것이 같은 것을 가지 않는 것을 것을 것을 것을 수 없다. 물건이 있는 것을	입지가 편의하는 것이 편안했지? 한 프라노트는 것		sary documents		
		therefrom, and preparing an index and list of documents not included in the record								
	on ap	en el la construction de la construction de la construcción de la construcción de la construcción de la constru La construcción de la construcción d	per quarter		 A statistic strategy and strategy and 					
	(i)	by an	n attorney					[328,00] <u>357,00</u>		
	(ii)			a na ana ana ana ang ang ang ang ang ang				[102,00] 111,00		
3.	Corre	ectina '	typed copy.	per quarte	r of an hour	or part ther	eof—			

Correcting typed copy, per quarter of an hour or part thereof—

(i) by an attorney
(ii) by a candidate attorney

[102,00]111.00

4. Attending at the office of the registrar or officer of the court appealed from to peruse or authenticate the record, per quarter of an hour or part thereof —

	(i) I	by an at	torney.								.[328,00]357	<u>,00</u>
											.[102,00]111	
5.	Making	typed	copies	of	record	on	appeal	and	heads	of	arguments,	per
	page										[4,50] 5	<u>,00</u>

C – PERUSAL

R.c

1.	(a) Perusing judgment of court a quo when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page							
	(b) Perusing record of appeal, for each page[6,50]7,50							
	(c) Perusing judgment of court <i>a quo</i> by which leave to appeal was denied, when taking instructions to apply for leave to appeal to the Court, per page							
2.	Perusing any plan, diagram, photograph or other annexure to the record to which							
	the remuneration hereinbefore set out cannot be applied per							
	page[66,50]72.00							
3.	(a) Attendance on and perusal of any application or affidavit or any other document not elsewhere provided for, per page							
	(b) Attendance on and perusal of any annexure to an application and answering affidavit, per page							
	(c) Attendance on and perusal of an application or affidavit composed or corrected by counsel, per page							
4.	Attendance on and perusal of heads of argument, excluding annexures for example unreported judgments of court or copies of publications attached as confirmation of heads of arguments, per page							

D – ATTENDANCE

R.c

1.	Any	Any formal attendance on an acknowledgement, receipt, etc						
2.	(a)) Attendance on any letter or document [66,50]72,00						
	(b) Necessary telephone calls made, the actual costs thereof, plus f minutes or part thereof —							
		(i) by an attorney[109,00] <u>119,00</u>						
		(ii) by a candidate attorney[34,00] <u>37,00</u>						
	(c)	Attendance on telephone calls, the actual costs thereof, plus for every five minutes or part thereof —						
		(i) by an attorney[109,00] <u>119,00</u>						
		(ii) by a candidate attorney[34,00] <u>37,00</u>						
З.	(a)	Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc, per quarter of an hour or part thereof—						
		(i) by an attorney[328,00]357,00						
		(ii) by a candidate attorney [102,00] <u>111,00</u>						

	(b)	(b) Attendance on business other than formal business, per quarter of an hour or part thereof—						
		(i)	by an attorney	[328,00] <u>357,00</u>				
		(ii)	by a candidate attorney	[102,00] <u>111,00</u>				
4.	(a)	Atter	ndance at any consultation with counsel or client-					
		(i)	by an attorney	[328,00] <u>357,00</u>				
		(ii)	by a candidate attorney	[102,00] <u>111,00</u>				
	(b)		mprehensive fee for attendance, obtaining and p og of judgment per quarter of an hour—	- 1992 (1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997 - 1997				
		(i)	by an attorney	[328,00] <u>357,00</u>				
		(ii)	by a candidate attorney	[102,00] 111,00				
5.	Attendance at court to note judgment per quarter of an hour —							
	(a)	by a	n attorney	[328,00] <u>357,00</u>				
	(b)	by a	candidate attorney	[102,00] <u>111,00</u>				
6.		ndance thereo	e at court on hearing of appeal or application, pe of —	r quarter of an hour or				
	(a)	by a	n attorney	[328,00] <u>357,00</u>				
	(b)	by a	candidate attorney	[102,00] <u>111,00</u>				
			E - DRAWING UP OF DOCUMENTS					

- DRAWING UP OF DOCUMENTS

R

	С
1.	Any application or affidavit, per page
2.	Instructions to counsel-
	(a) on appeal per page[131,50]143,00
	(b) on application per page[131,50]143,00
	(c) in justifiable cases, for the drawing up or correcting of application or affidavit for an application for leave to appeal or disputing thereof per page
3.	Drawing up of notice of appeal or other necessary notices,
	per page [131,50] 143,00
4.	Letters per page, including copy to keep[131,50]143,00
5.	Drawing up power of attorney, per page[131,50]143,00
6.	Drawing up short brief to counsel per page[131,50]143,00
7.	Drawing up bond of security, per page[131,50]143,00

F - COPYING

	R.c
Other documents not specially provided for, per page	[4,50] 5,00

G - BILLS OF COSTS

In connection with a bill of costs for work done or services rendered by an attorney, such attorney shall be entitled to charge the following:

- 1. For drawing up the bill of costs, making the necessary copies and attending settlement, 11 per cent of the attorney's fees, either as charged in the bill, if not taxed or as allowed on taxation.
- 2. In addition to the fees charged under paragraph 1, if recourse is had to taxation for arranging and attending taxation, and obtaining consent to taxation, 11 per cent on the first R10 000,00 or portion thereof, 6 per cent on the next R10 000,00 or portion thereof and 3 per cent on the balance of the total amount of the bill.".

Commencement

4. These Rules come into operation on 08 July 2022.

DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 2135

3 Junie 2022

WET OP DIE REËLSRAAD VIR GEREGSHOWE, 1985 (WET NO. 107 VAN 1985)

REËLS WAARBY DIE VERRIGTINGE VAN DIE HOOGSTE HOF VAN APPÈL VAN SUID-AFRIKA GEREËL WORD

Die Reëlsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister vir Justisie en Korrektiewe Dienste, die reëls in die Bylae gemaak.

BYLAE

ALGEMENE VERDUIDELIKENDE NOTA:

 [
]
 Woorde of uitdrukkings in vetdruk in vierkantige hakies dui op weglatings uit bestaande reëls

 Woorde of uitdrukkings met 'n volstreep daaronder dui op invoegings in bestaande reëls.

Woordomskrywing

 In hierdie Bylae beteken "die reëls" die Reëls waarby die verrigtinge van die Hoogste Hof van Appèl van Suid-Afrika gereël word, afgekondig in Goewermentskennisgewing No. R. 1523 van 27 November 1998, soos gewysig deur Goewermentskennisgewings R. 979 van 19 November 2010, R. 191 van 11 Maart 2011, R. 113 van 15 Februarie 2013, R. 1055 van 29 September 2017, R. 1318 van 30 November 2018, R. 842 van 31 Mei 2019, R. 858 van 7 Augustus 2020, R. 1158 van 30 Oktober 2020 en R. 1602 van 17 Desember 2021.

Wysiging van reël 15 van Reëls

- Reël 15 van die Reëls word hierby gewysig—
- (a) deur die opskrif deur die volgende opskrif te vervang:

"Regshulp aan behoeftige persone";

(b) deur subreël (1) deur die volgende subreël te vervang:

"(1) <u>(a)</u> Enige party wat 'n natuurlike persoon is, **[en]** wat van mening is dat hy of sy behoeftig is, <u>en wat nie vir regshulp kwalifiseer</u> <u>nie, of wat as 'n behoeftige gedingvoerder in 'n appèl wat reeds 'n aanvang</u> <u>geneem het, moet voortgaan,</u> kan by die griffier aansoek doen om **[in forma** *pauperis*] <u>as 'n behoeftige gedingvoerder</u> 'n appèl voort te sit of te verdedig <u>en indien dit vir die griffier wil voorkom dat daardie persoon 'n persoon beoog</u> <u>in subreël (2) is, moet die griffier daardie persoon na 'n prokureur en 'n</u> <u>advokaat verwys</u>.

(b) Waar 'n persoon aansoek doen om voort te gaan as 'n behoeftige gedingvoerder in 'n appèl wat reeds in aanvang geneem het, kan sodanige persoon dit doen deur ingevolge die bepalings van hierdie reël voort te gaan, maar daarbenewens moet hy of sy—

 (i) die verandering in sy of haar omstandighede uiteensit wat dit nodig maak om as 'n behoeftige gedingvoerder voort te gaan met die vervolging of verdediging van 'n appèl; en

(ii) kennis van die aansoek aan die teenparty gee.

sodanige aansoek beswaar aanteken, moet die applikant formeel by die hof aansoek doen om sodanige toestemming, nadat behoorlik kennis aan die teenparty gegee is.".

(c) Indien die teenparty teen die toestaan van

(c) deur subreël (2) deur die volgende subreël te vervang:

"(2) 'n Party word geag behoeftig te wees indien **[hy of sy]** <u>daardie party</u> die griffier daarvan kan oortuig dat, met uitsondering van huisraad, klere en ambagsgereedskap, **[hy of sy]** <u>daardie party</u> minder as **[R10 000]** <u>R640 000</u> aan waarde besit en nie binne 'n redelike tyd sodanige bedrag uit **[sy of haar]** <u>eie</u> verdienste sal kan bybring nie of regshulp sal verkry nie.";

(d) deur subreël (3) deur die volgende subreël te vervang:

"(3) Sodanige versoek mag nie by die griffier ingedien word nie tensy die teenparty wie se toestemming gevra is, versuim het om dit binne een maand te verskaf of toestemming geweier het om die applikant die

verrigtinge [*in forma pauperis*] as 'n behoeftige gedingvoerder te laat voortsit."; en

(e) deur subreël (5) deur die volgende subreël te vervang:

"(5) Indien 'n party verlof toegestaan is om 'n appèl [in

R.s

R.s

forma pauperis] as 'n behoeftige gedingvoerder voort te sit of te verdedig,

kan die verskaffing van sekuriteit ingevolge hierdie reëls vir die koste van die

teenparty [of die betaling van enige hofgelde] nie van die party geëis word

nie, ondanks die bestaan van 'n bevel in reël 9(1) bedoel.".

Wysiging van reël 18 van die reels

3. Die reëls word hierby gewysig deur reël 18 deur die volgende reël te vervang:

"Prokureursgelde

 Die volgende gelde word toegelaat vir prokureurs wat appèlle of ander sake voor die Hof voer:

A – NEEM VAN INSTRUKSIES

1. Om 'n appèl of teenappèl aan te teken wanneer verlof om te appelleer nie 'n (a) vereiste is nie per kwartier van 'n uur-(i) deur 'n prokureur[328,00]357,00 (ii) deur 'n kandidaatprokureur[102,00]111,00 (b) Om 'n appèl voort te sit of te verdedig, insluitende voortsetting van 'n teenappèl per kwartier van 'n uurdeur 'n prokureur[328,00]357,00 (i) (ii) deur 'n kandidaatprokureur[102,00]111,00 (c) Om 'n aansoek te doen of dit te bestry per kwartier van 'n uur-(i) deur 'n prokureur[328,00]357,00 (ii) deur 'n kandidaatprokureur[102,00]111,00 2. Om enige aansoek of beëdigde verklaring op te stel per bladsy.......[131,50]143,00

B – VOORBEREIDING VAN STUKKE

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 Rangskikking van stukke vir druk of tik, met uitsluiting van onnodige dokumente, en voorbereiding van 'n inhoudsopgawe en lys van dokumente nie ingesluit in die oorkonde van appèl nie, per kwartier van 'n uur of gedeelte daarvan —

	(i) deur 'n prokureur	[328,00]357,00					
	(ii) deur 'n kandidaatprokureur						
З.	Nasien van getikte afskrif, per kwartier van 'n uur of gedeel	te daarvan—					
	(i) deur 'n prokureur[328,00]357,00						
	(ii) deur 'n kandidaatprokureur[102,00]111.00						
4.	Opwagting by die kantoor van die griffier of beampte va geappelleer word, om die oorkonde na te gaan of te laat wa						
	'n uur of gedeelte daarvan						
	(i) deur 'n prokureur						
	(ii) deur 'n kandidaatprokureur	[102,00] <u>111,00</u>					

C - NAGAAN

R.s 1. (a) Nagaan van die hofuitspraak a quo wanneer instruksies geneem word vir die voortsetting van 'n appèl of teenappèl, waar verlof om te appelleer nie 'n (b) (c) Nagaan van die hofuitspraak a quo waarby verlof om te appelleer geweier word, wanneer instruksies geneem word om aansoek te doen om verlof om na die Hof te appelleer, per bladsy......[6,50]7,50 2. Nagaan van enige plan, skets, foto of ander aanhangsel van die stukke waarop die vergoeding hierbo uiteengesit, nie toegepas kan word nie, per bladsy......[66,50]72,00 3. (a)Aandag gee aan en nagaan van enige aansoek of beëdigde verklaring of enige ander dokument waarvoor nie elders voorsiening gemaak word nie, per (b) Aandag gee aan en nagaan van enige aanhangsel van 'n aansoek en antwoordende verklaring, per bladsy[6,50]7.50 (C) Aandag gee aan en nagaan van 'n aansoek of beëdigde verklaring wat deur 'n advokaat opgestel of nagesien is, per bladsy......[16,00]18.00 4. Aandag gee aan en nagaan van betoogpunte met uitsluiting van aanhangsels soos byvoorbeeld ongerapporteerde hofuitsprake of afskrifte van publikasies wat ter **D – BEHARTIGING** R.s 1

	Enige	form	ele behartiging van 'n erkenning, ontvangs, ens	I66 50172 00
8) 	(a)		artiging van enige brief of dokument	
90	(b)	Nodi	ge telefoonoproepe gemaak, die werklike koste daarvan, te of gedeelte daarvan—	
		(i)	deur 'n prokureur[
		(ii)	deur 'n kandidaatprokureur	[34,00] <u>37,00</u>

2

	(c)	Behartiging van telefoonoproepe vir elke vyf minute of gedeelte daarvan—
	a	(i) deur 'n prokureur[109,00] <u>119,00</u>
		(ii) deur 'n kandidaatprokureur[34,00] 37,00
З.	(a)	Opwagting by kantoor van griffier om 'n brief of dokument af te lewer of om 'n
		bevel af te haal, ens., per kwartier van 'n uur of gedeelte daarvan-
		(i) deur 'n prokureur[328,00]357,00
		(ii) deur 'n kandidaatprokureur[102,00]111,00
	(b)	Behartiging van besigheid wat nie formeel is nie, per kwartier van 'n uur of gedeelte daarvan—
		(i) deur 'n prokureur[328,00]357,00
		(ii) deur 'n kandidaatprokureur[102,00]111,00
4.	(a)	Opwagting by enige samesprekings met 'n advokaat of kliënt per kwartier van
	'n ui	ır of gedeelte daarvan —
		(i) deur 'n prokureur[328,00]357,00
		(ii) deur 'n kandidaatprokureur[102,00]111,00
	(b)	'n Allesinsluitende bedrag vir opwagtings, verkryging en betaling van 'n advokaat om 'n uitspraak te noteer —
		(i) deur 'n prokureur[328,00]357,00
		(ii) deur 'n kandidaatprokureur[102,00]111,00
5.	Opv	agting by hof om vonnis te noteer per kwartier van 'n uur-
	(a)	deur 'n prokureur
	(b)	deur 'n kandidaatprokureur[102,00]111,00
6.	Ори	agting by hof by verhoor van appèl of aansoek, per kwartier van 'n uur of
		eelte daarvan
	(a)	deur 'n prokureur[328,00]357,00
	(b)	deur 'n kandidaatprokureur[102,00]111,00

E - OPSTEL VAN DOKUMENTE

÷.

R.s

			Rs
1.	Enige aansoek of b	beëdigde verklaring, per bladsy	[131,50]143,00
2.	Instruksies aan adv	/okaat—	
	(a) by appèl pe	r bladsy	[131,50] 143,00
		per bladsy	
	(c) in geregvere	digde gevalle, vir die opstel of nasien	van 'n aansoek of beëdigde
	verklaring v	ir 'n aansoek om verlof om te appellee	er of bestryding daarvan per
	bladsy		[131,50] 143,00
З.	Opstel van kennisg	jewing van appèl of ander nodige kenn	isgewings,
	per bladsy		[131,50]143,00
4.	Briewe, per blads	y, insluitende afskrif om te hou	[131,50]143.00
5.	Opstel van volma	g, per bladsy	[131,50]143.00
6.		pdrag aan advokaat, per bladsy	
7.	Opstel van borgal	kte, per bladsy	[131,50]143,00

F – MAAK VAN AFSKRIFTE

Ander dokumente waarvoor nie spesiaal voorsiening gemaak is nie, per bladsy [4,50]5,00

G - KOSTEREKENINGE

In verband met 'n kosterekening vir werk gedoen of dienste gelewer deur 'n prokureur, is sodanige prokureur daarop geregtig om die volgende te vorder:

- Vir die opstel van die kosterekening, die maak van die nodige afskrifte en opwagting by afrekening, 11 persent van die prokureursgelde, hetsy soos in die rekening gehef indien nie getakseer nie of soos by taksasie toegelaat.
- Benewens die gelde kragtens paragraaf 1 gehef, indien tot taksasie oorgegaan word vir reëling en behartiging van taksasie, en verkryging van toestemming tot taksasie, 11 persent op die eerste R10 000.00 of gedeelte daarvan, 6 persent op die volgende R10 000.00 of gedeelte daarvan en 3 persent op die balans van die totale bedrag van die rekening.".

Inwerkingtreding

4. Hierdie Reëls tree in werking op 08 Julie 2022.